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10 *Attorneys for Plaintiff*

11 **IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF ARIZONA**

13 IN RE BARD IVC FILTERS PRODUCTS
14 LIABILITY LITIGATION

15 No. 2:15-MD-02641-DGC

16 This Document relates to Plaintiff:

17 Philip Pero
18 2:18-cv-2395-DGC

19 **PLAINTIFF'S MOTION TO SUBSTITUTE PARTY AND
20 MOTION FOR LEAVE TO AMEND COMPLAINT**

21 Counsel, pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure,
22 moves this Court for an Order substituting Barbara J. Pero o behalf of her deceased
23 husband, Philip Pero.

24

- 25 1. Philip Pero filed a products liability lawsuit against Defendants on July 31,
26 2018, in the United States District Court of Arizona.
- 27 2. On September 24 2018, while attempting to contact Plaintiff Philip Pero, his
28 spouse, Ms. Barbara J. Pero notified us of his passing.
3. Barbara J. Pero, the surviving spouse of the deceased Philip Pero, is a proper
party to substitute for Plaintiff-decedent Philip Pero. "A party may amend its

pleading only with the opposing party's written consent or the court's leave.

The court should freely give leave when justice so requires." Rule 15(a)(2)

Fed. R. Civ. P.; *Foman v Davis*, 371 U.S. 178,182 (1962). Attached to the contemporaneously filed Plaintiff's First Amended Short Form Complaint, attached hereto as Exhibit A.

Based on the foregoing, Barbara J. Pero requests that his Court grant her request for substitution as Plaintiff in this action and for leave to file the First Amended Short Form Complaint and direct the Clerk to file the attached Short Form Complaint.

RESPECTFULLY SUBMITTED this 18 day of October, 2018.

LAW OFFICE OF CHRISTOPHER K. JOHNSTON, LLC

By: /s/ William Rivera-Alvarez

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CERTIFICATE OF SERVICE

I hereby certify that on this 18 day of October, 2018, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ William Rivera-Alvarez
WILLIAM RIVERA-ALVAREZ